

#### Members

Rep. Scott Mellinger, Chairperson  
Rep. Ed Mahern  
Rep. Win Moses  
Rep. Dean Mock  
Rep. William Ruppel  
Rep. P. Eric Turner  
Sen. Charles Meeks, Vice-Chairperson  
Sen. John Waterman  
Sen. Thomas Weatherwax  
Sen. John Broden  
Sen. Timothy Lanane  
Sen. Frank Mrvan



## INTERIM STUDY COMMITTEE ON STATE AND LOCAL GOVERNMENT ISSUES

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Authority: Legislative Council Resolution 01-2  
(Adopted June 7, 2001)

### MEETING MINUTES<sup>1</sup>

Meeting Date: August 27, 2001  
Meeting Time: 1:00 P.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 130  
Meeting City: Indianapolis, Indiana  
Meeting Number: 2

**Members Present:** Rep. Scott Mellinger, Chairperson; Rep. Ed Mahern; Rep. Win Moses; Rep. Dean Mock; Rep. William Ruppel; Rep. P. Eric Turner; Sen. Charles Meeks, Vice-Chairperson; Sen. John Waterman; Sen. Frank Mrvan.

**Members Absent:** Sen. Thomas Weatherwax; Sen. John Broden; Sen. Timothy Lanane.

#### I. CALL TO ORDER

Chair Mellinger called the Committee to order at 1:15 p.m.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

## II. SENATE CONCURRENT RESOLUTION 26

The Committee began its study of SCR 26 concerning telephone services provided to inmates of state and local correctional facilities. Chair Mellinger received testimony from the following witnesses: Jay McQueen, Department of Administration (DOA); Steve Rogers, Ameritech; Bob Veneck, AT&T; Mike Leppert, Indiana Utility Regulatory Commission (IURC); Anthony Dzwonar, Office of Utility Consumer Counselor (OUCC); Randy Koester, Department of Correction (DOC); Bruce Hartman and Mike Hoose, State Board of Accounts (SBA); and Tom Freuchtenicht and other members of the Indiana Sheriff's Association (ISA).

Mr. McQueen testified that the DOA recently completed its request for proposals (RFP) and acquisition procedure for interlata, intrastate, and interstate long distance services for the State of Indiana, including the DOC. The DOA entered into a four year contract with T-Netix to provide these services for the State. For operator-assisted collect calls placed from a State-operated pay phone, T-Netix will charge a \$1.50 connect fee and \$0.25 per minute. An individual may prepay the individual's telephone bill to avoid paying the \$1.50 connect fee. The DOA will issue a new RFP in the spring for local telephone service.

In response to questions from the Committee, Mr. McQueen provided the following information:

! The State's current contract with AT&T expires in October. Under this contract, AT&T charged a connect fee of \$3.95 per call and \$0.69 per minute. These charges applied to all State-operated pay phones.

! The State receives a 53% commission on all interlata and long distance calls made through AT&T on State-operated pay phones.

! AT&T made annual prepayments of commissions to the DOA which were reconciled at the end of the year based on the actual commissions received by the DOA.

! Commissions received from interlata and long distance telephone calls go to the DOA. The DOA received approximately \$11 million in commission in 2000. There is currently about \$5.5 million in the telephone fund. The money is directed by the SBA and the General Assembly to be spent in four areas: the government management information system; the wide area network; the judicial technical and automation project; and the Department of Local Government Finance.

! The contract with T-Netix starts in October and covers all pay phones operated by the State, from state parks to state prisons.

! T-Netix will pay the State 45% in commissions.

! It is Mr. McQueen's opinion that T-Netix buys telephone time from another telephone utility and resells the time. T-Netix's specialty is dealing with departments of correction.

! The State has several contractual remedies if T-Netix is unable to provide reliable and adequate telephone service at the price agreed on in the contract. The State may retain another long distance provider and charge the difference in price to T-Netix.

! Based on the new rates and commissions, the DOA anticipates losing about \$5 million each year.

Mr. Rogers testified that Ameritech currently provides local telephone service for the State through a contract with the DOA. Ameritech has similar commission-based contracts with 38 state and local correctional facilities. For an operator-assisted local call placed at a DOC pay phone, Ameritech charges a connect fee of \$3.65. For all other State-operated pay phones, the connect fee is \$4.60. Telephone service in the DOC requires different security measures, such as more technologically sophisticated equipment and software. Members of the general population usually do not pay the \$4.60 connect fee because they can use dial-around services, calling cards, or mobile phones. Uncollectible debt is three to four times as great in the inmate telephone market as in other markets.

Mr. Veneck did not give a presentation but took questions from the Committee. Until hearing Mr. McQueen's testimony, Mr. Veneck was unaware that AT&T had not been awarded the upcoming interlata and long distance contract. Mr. Veneck was not familiar with T-Netix and did not know if AT&T owned all or any part of T-Netix. During Mr. Veneck's testimony, Chair Mellinger clarified that, under the previous contract with AT&T, the State received annual prepayments of commissions that were reconciled at the end of each year. Senator Meeks expressed his concern that other participants in the RFP process were not granted the same opportunity to offer prepayment of commissions.

At this point, Mr. McQueen stated that the previous RFP did not require prepayment of commissions. The goal of the previous RFP was to maximize profit for the State, and the only delimiting criteria was that the maximum rate could not exceed the maximum tariff set by the IURC. The decision whether to offer prepayment of commissions was a business decision made at the discretion of the company, but it was a factor the DOA considered when entering into a contract.

Mr. Leppert distributed copies of the IURC's August 24, 2001 order in Cause No. 41429, *Mario L. Sims, Sr., et al., v. AT&T*. In its order, the IURC deferred to the RFP process because the RFP process conforms to the tariff rates approved by the IURC. Mr. Leppert testified that a telephone utility may set its rates anywhere up to \$0.69 per minute, the maximum tariff rate approved by the IURC. The market for telephone services determines the ultimate rate paid by customers. In response to questioning by Senator Meeks as to whether the IURC should be involved in the RFP process, Mr. Leppert stated that the IURC believes the rates charged for inmate telephone calls are high but not necessarily unreasonable or discriminatory. Rates charged to the general population may be higher than prison rates and still fall within the tariff guidelines. Representative Mahern asked Mr. Leppert what would happen to telephone rates if commissions were outlawed; Mr. Leppert responded that rates probably would increase by the amount of the commission.

Mr. Koester testified that the DOC receives all commissions from local telephone calls placed by confined offenders in state correctional facilities; the commissions are deposited directly into the offender recreation fund for the facility that generated the commissions. The offender recreation fund is used to pay for recreational equipment, law library and general library supplies and books, videotapes, music, guest speakers, and celebratory meals. In fiscal year 1998-1999, all DOC facilities received \$693,479 in commissions; in fiscal year 1999-2000, DOC received \$850,157; and in fiscal year 2000-2001, Mr. Koester estimates DOC will receive \$900,000 in commissions.

Mr. Koester further testified that phones in DOC facilities are generally used for good purposes and serve to rehabilitate prisoners. Each facility maintains a roster, and an inmate must sign up to use the phone. Each inmate has a pin number used to identify collect calls. The inmate must provide the facility with a list of numbers the inmate intends to call. As part of its monitoring function, the facility may block calls made to numbers not on the list. Phone calls made to attorneys or in an emergency generally are not monitored. A facility may place further restrictions on an inmate's telephone use based on the offender's conduct. If the DOC no longer receives commissions, it would have to reevaluate its provision of telephone services. Monitoring equipment is part of the DOC's contract with Ameritech, and if Ameritech removed the monitoring equipment, DOC might no longer be able to provide monitored telephone service to inmates.

Mr. Hartman and Mr. Hoose of the SBA testified that the SBA audits DOA and DOC contracts as part of its two year audit cycle. The SBA is not involved in the RFP process. If the rate charged under a contract is inaccurate, it is cited in the audit report. The SBA is not concerned with the rate charged for telephone services.

Mr. Freuchtenicht introduced several members of the ISA, including Mr. Essler; Mr. Gossard; Sheriff Arnold, LaPorte County; and Sheriff Allen, Green County. County sheriffs enter into contracts with telephone utilities to provide service to the jail inmates. For safety purposes, a sheriff may place a header on a telephone message informing the recipient of the origin and price of the collect call placed by the inmate. A sheriff also may negotiate with the telephone company to place caps on the accounts of individuals called by inmates; this protects both the company and the recipient of the phone call. The sheriffs testified that the commissions their jails receive are used to help the inmates and relieve the burden on taxpayers.

### III. DISCUSSION OF NEXT MEETING

The Committee decided to continue its study of SCR 26 at its next meeting and to receive additional witness testimony. The Committee scheduled its next meeting for Thursday, September 13, 2001, at 1:00 p.m. in Room 130 of the Statehouse.

### IV. ADJOURNMENT

Chair Mellinger adjourned the Committee at 3:35 p.m.